


GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF PLANNING



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**MEMORANDUM**

**TO:** Board of Zoning Adjustment  
**FROM:**  Jennifer Steingasser, Deputy Director  
**DATE:** June 7, 2008  
**SUBJECT:** BZA Application 17780, 4510-4528 Benning Road SE

**APPLICATION**

Benco Center LLC, the applicant, originally requested Board of Zoning Adjustment approval of:

- a variance from § 2101.1 to reduce the parking required for the existing shopping center at 4510-4528 Benning Road SE (Square 5346 Lot 11) from 56 to 52 spaces; and
- a special exception under § 214 to permit the continued use of the existing accessory parking lot located across the adjacent alley (Square 5346 Lot 8).

Subsequent to this submission, the applicant modified this application to instead request special exception relief under § 2108 for the desired parking reduction.

**SUMMARY RECOMMENDATION**

The Office of Planning (OP) recommends approval of the requested special exceptions subject to conditions that:

- prior to final action, detailed plans for rehabilitation of the existing shopping center parking area on lot 11, and the accessory parking area on lot 8 in a manner consistent with standards of the District Department of Transportation, chapter 23 and § 2117 of the Zoning Regulations shall be added to the public record;
- both parking lot rehabilitations shall be completed prior to the issuance of a Certificate of Occupancy for the accessory parking lot; and
- the term of the accessory parking lot approval shall be for one year.

**SITE AND AREA DESCRIPTION**

This application involves two properties. Lot 11 is a 41,504 square-foot (0.95 acre) corner lot bounded by the East Capitol Street rights-of-way to the north and the Benning Road, SE right-of-way to the west, and an alley 15 feet wide that continues between these roadways and along the eastern and southern property lines. The property is developed with a 1-2 story retail strip shopping center with a 36-space parking area in poor condition. Curb cuts along East Capitol Street and Benning Road provide vehicular access to this parking facility.

Adjacent lot 8 has a land area of 7,188 square feet (0.16 acre) and is located along Benning Road just south of the referenced alley. The 13-space paved parking area occupies approximately the western two-thirds of this lot. The facility is surrounded by a five-foot tall chain-link fence topped with barbed wire with gated vehicular access from the adjacent alley. The only illumination is provided by street lights along the alley. A service driveway that crosses the eastern portion of this lot extends from this alley to B Street, SE behind apartment buildings further south. There is also an un-striped parking/dumpster pad off the alley and what appears to be an unexcavated plateau currently used for open storage of trash dumpsters (refer to Exhibit 1).

Surrounding development consists of a lone retail use to the north across East Capitol Street; several apartment buildings to the east and south; and a free-standing restaurant and gasoline station to the west across Benning Road. Subject lot 11 and properties to the north across East Capitol Street, and west across Benning Road are in a C-3-A district. Subject lot 8 and the apartment buildings to the northeast, east and south are in an R-5-A district (refer to Exhibit 2).

### **EXISTING ZONING AND RELIEF REQUESTED**

Retail uses, such those currently located in the shopping center are allowed as a matter of right in the C-3-A district. The accessory parking area on lot 8 is also allowed in an R-5-A district with special exception approval subject to the standards of § 214.

D.C. land records indicate the shopping center was constructed in 1958 with a gross floor area of 16,788 square feet. This application indicates an addition increased the gross floor area of center by 2,979 square feet to the current 19,767 square feet. Under § 2101.1 this amount of gross retail floor area requires 56 on-site parking spaces.

Lot 8 has been the subject of the previous BZA approvals:

- Appeal No. 4838 (1957): to establish a "temporary" automobile parking lot associated with the subject shopping center on lot 11 subject to the following conditions:
  - The permit was to be issued for a period of one year subject to BZA renewal;
  - The applicant was required to erect a five-foot high "Anchor type" fence; and
  - The lot was to be paved with an impervious material.
- Appeal No. 5765 (1959): to continue operation of this accessory parking facility for one more year subject to these additional conditions:
  - The parking lot was to be designed so no vehicle or portion thereof would project beyond the lot or building line;
  - Any parking lot lighting was to be arranged so only the surface of the parking lot would be illuminated; and
- Appeal No. 6217 (1961): to continue operation of the parking lot for five years.

The application states that this accessory that parking facility has been in continuous use since the extension was approval although the third order actually expired in 1966. The existing

accessory use is therefore nonconforming. Submitted plans indicate the lot is and would continue to be striped for 13 spaces. However the 52 parking spaces available in both parking facilities still is less than the amount currently required for the shopping center.

The submission indicates the applicant is a new owner who became aware of the parking deficiency and lack of special exception approval for the accessory parking lot after purchasing these properties. Accordingly, the applicant now requests:

- special exception approval to reduce the parking requirement for the shopping center on lot 11 to 52 spaces in accordance with § 2108; and
- special exception approval to bring the existing accessory parking area on lot 8 into conformance with § 214.

## ANALYSIS

### Consistency with § 2108

With regards to the request to reduce the parking spaces required for the shopping center:

*2108.2 The amount of required parking spaces shall not be reduced by more than twenty-five percent (25%); provided, that for a use that is in the category of "All Other Uses" in the table in § 2101.1, the amount of required parking spaces shall not be reduced by more than fifty percent (50%).* The requested would continue the non-conforming number of 52 parking spaces, just over 7% less than of the total requirement.

*2108.3 The Board shall give consideration to the:*

- (a) Nature and location of the structure;* The shopping center is located on a corner lot and is immediately accessible to the 36-space parking area on-site, the 13-space accessory parking lot across the adjacent alley, and Washington Metropolitan Transit Authority (WMATA) bus routes along Benning Road and East Capitol Street NE. North of East Capitol Street approximately 235 feet away is the entrance to the underground Benning Road Metro rail station serving the Blue Line (refer to Exhibit 3).
- (b) Maximum number of students, employees, guests, customers, or clients who can reasonably be expected to use the proposed building or structure at one time;* Undetermined.
- (c) Amount of traffic congestion existing or that the building or structure can reasonably be expected to create in the neighborhood;* Although this application does not include information about current level of traffic congestion surrounding this shopping center, if approved this application would only continue a land use / parking relationship that has lasted over 50 years. Much of second-floor addition is occupied by a Comcast file server which does not generate any additional customer traffic. Since no further expansion of the existing retail use floor area is proposed, and the resulting parking capacity would not allow any further by-right building additions, approval of this request would not have a negative impact on any existing level of traffic congestion.

- (d) *Quantity of existing public, commercial, or private parking, other than curb parking, on the property or in the neighborhood that can reasonably be expected to be available when the building or structure is in use; ...* No on-street parking is allowed along Benning Road and East Capitol Street so the only available parking will continue to be the 36 parking spaces on-site and the 13-parking spaces on the accessory parking lot. Both facilities are in poor condition.
- (e) *Proximity to public transportation, particularly Metrorail stations, and the availability of public transportation service in the area or a ride-sharing program approved by the D.C. Department of Transportation.* The site has immediately proximity to public transit (reference [a] above).

2108.4 *If the applicant relies on a ride-sharing program, the applicant shall demonstrate to the Board that the program shall continue as long as the use continues.* No ride-sharing program is proposed in this case.

2108.5 *Prior to taking final action on an application, the Board shall refer the application to the D.C. Department of Transportation for review and report.* The District Department of Transportation (DDOT) was requested to comment on this application.

Based on this information and pending DDOT comments, the Office of Planning would support the continued provision of the 52 spaces on-site and in the accessory parking facility. This support is conditioned on the shopping center parking area being rehabilitated consistent with the Department of Transportation standards, and the applicable provisions of chapter 23 and § 2117 once the Voluntary Clean-Up Program ("VCP") is completed. Rehabilitation of this lot would ensure the long-term viability of this parking resource.

#### Consistency with § 214

With regards to the request to continue the nonconforming accessory parking use on lot 8:

- 214 *Accessory parking spaces shall be in an open area or in an underground garage no portion of which, except for access, shall extend above the level of the adjacent finished grade.* Accessory parking spaces on lot 8 are surface spaces in an open area.
- 214.2 *Accessory parking spaces shall be located in their entirety within two hundred feet (200 ft.) of the area to which they are accessory.* The accessory parking spaces are 30 feet away from the shopping center (the width of the existing alley).
- 214.3 *Accessory parking spaces shall be contiguous to or separated only by an alley from the use to which they are accessory.* This proposal is consistent with this standard.
- 214.4 *All provisions of chapter 23 of this title regulating parking lots shall be complied with, except that the Board may in an appropriate case under § 2303.3 modify or waive the conditions specified in § 2303.2 where compliance would serve no useful purpose.* The accessory parking lot is generally consistent with conditions imposed in 1957 and 1959; however it is *inconsistent* with the current provisions of chapter 23 with regards to the

condition of and materials used for the driveway, access lane and parking area surfaces, and the lack of landscaping and visual screening.

*214.5 It shall be deemed economically impracticable or unsafe to locate accessory parking spaces within the principal building or on the same lot on which the building or use is permitted because of the following: ...*

*(b) Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot;* Based on the existing development on the shopping center site, the maximum amount of *on-site* parking is currently being provided. Due to the existing service driveway and retaining wall around the unexcavated land area, it also appears expanding the capacity of the accessory parking facility would be difficult.

*214.7 Accessory parking spaces shall be so located, and facilities in relation to the parking lot shall be so designed, that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.* When properly rehabilitated consistent with the DDOT standards and current zoning requirements, this accessory parking lot is not anticipated to be objectionable to the adjoining properties.

In light of these findings, OP recommends a condition of approval that, prior to final action, detailed site plans for rehabilitation of the existing accessory parking lot are added to the public record that are consistent with DDOT standards, and the applicable requirements under chapter 23 and § 2117 of the Zoning Regulations.

Once rehabilitations of both parking areas are completed, both proposals would meet referenced standards for approval. Granting the requested special exceptions would then be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map.

OP also recommends a term of one year for the accessory parking lot to enable the BZA to verify that all required improvement have been made, improvements made have proven sufficient and the lot has been adequately maintained.

#### **AGENCY COMMENTS**

The District Department of Transportation (DDOT) was requested to study a concern raised by the Advisory Neighborhood Commission (refer to the Community Comments section below). To date no agency comments have been added to the case file.

#### **COMMUNITY COMMENTS**

At its regularly scheduled meeting on April 8, 2008, Advisory Neighborhood Commission (ANC) 7E unanimously voted to support this application but requested that DDOT study the potential for additional congestion at the alley intersection with Benning Road as a result of vehicles utilizing the (existing) accessory parking lot.

### **RECOMMENDATION**

The Office of Planning recommends approval of the requested special exceptions subject to conditions that:

- prior to final action, detailed plans for rehabilitation of the existing shopping center parking area on lot 11, and the accessory parking area on lot 8 in a manner consistent with standards of the District Department of Transportation, chapter 23 and § 2117 of the Zoning Regulations shall be added to the public record;
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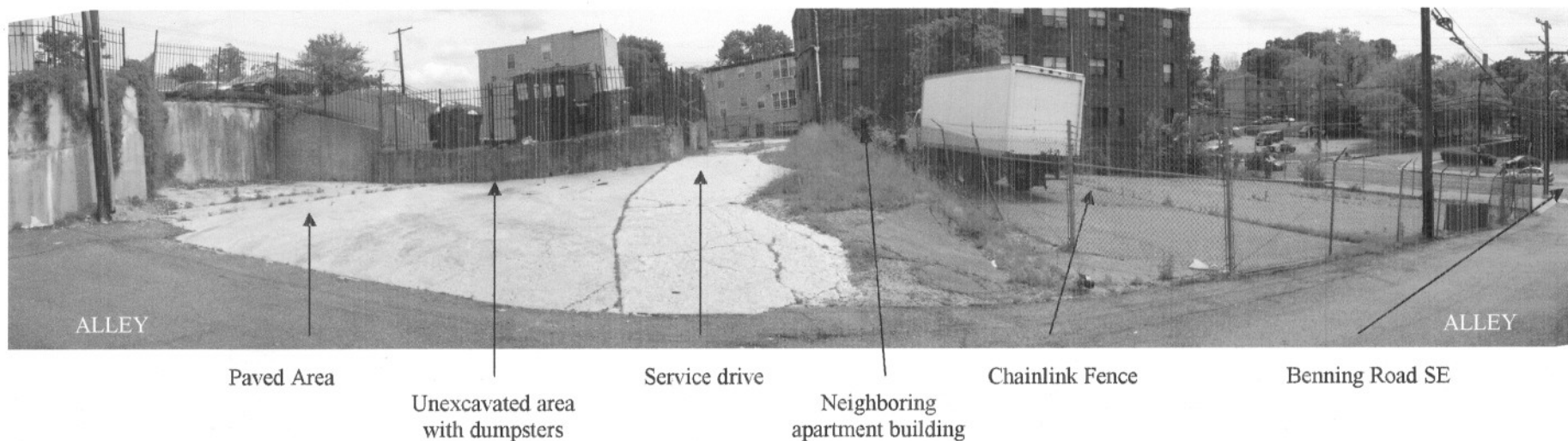
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Attachment:	Exhibit 1	Photographs of the Accessory Parking Lot
	Exhibit 2	Aerial Including Zoning
	Exhibit 3	Vicinity Map



## Photographs of the On-site and Accessory Parking Lots

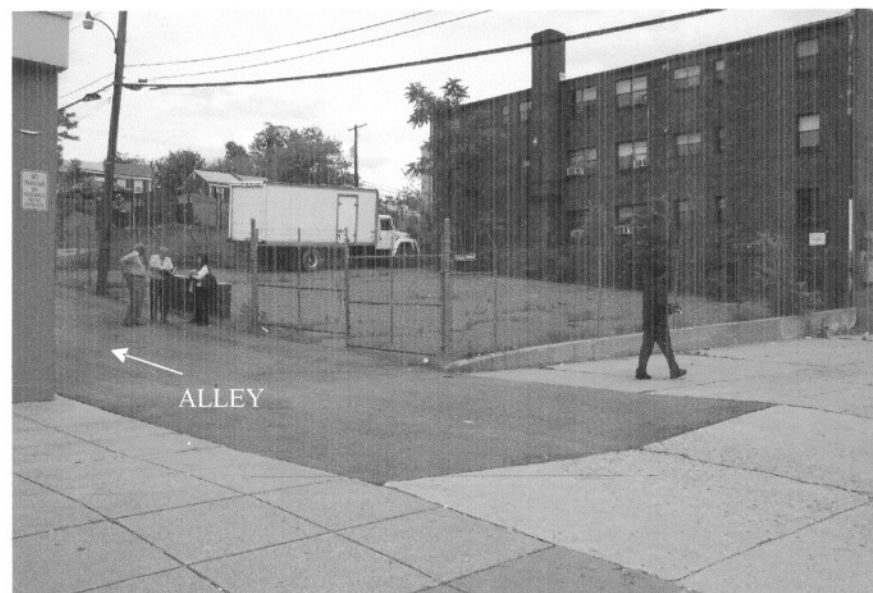
View to the Southeast of the Accessory Lot



Shopping Center Parking Lot

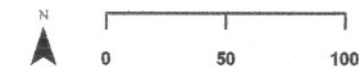


View from the Alley Intersection with Benning Road SE





**BZA Application No. 17780  
4510-4528 Benning Road SE**



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Adrian M. Fenty, Mayor

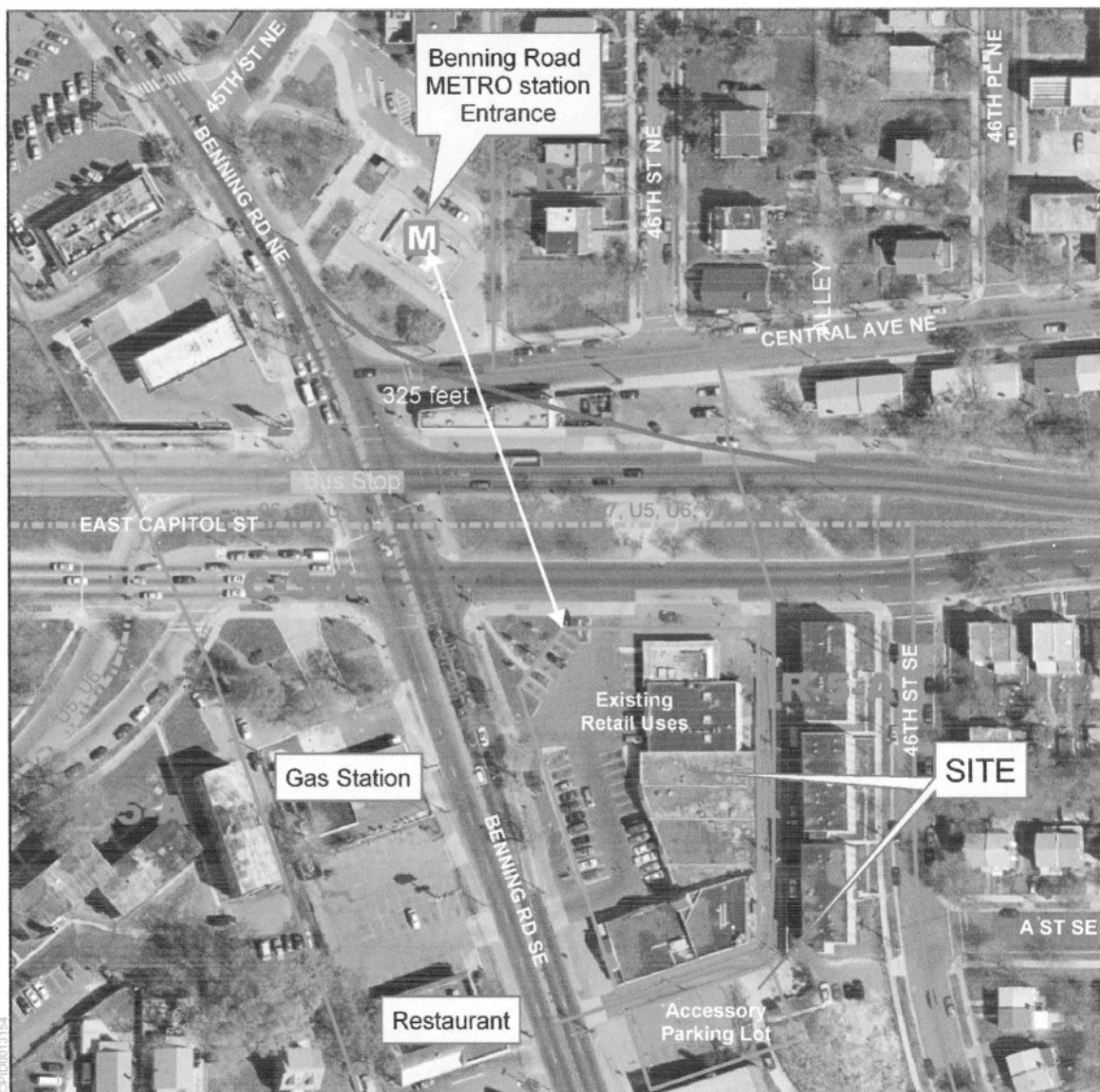
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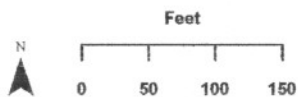
**LEGEND**

-  Metro Station Entrances
-  Metro Bus Routes
- Owner Points (Lite)
- Street Centerlines





## BZA Application No. 17780 Vicinity Map



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### LEGEND

- Metro Station Entrances
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